

HONORABLE KAREN L. STROMBOM

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

GREAT NORTHWEST RESTAURANTS,  
INC., a Washington corporation; BAL  
GLOBAL FINANCE, LLC, a Delaware  
limited liability company; UNITED STATES  
OF AMERICA, DEPARTMENT OF  
TREASURY, INTERNAL REVENUE  
SERVICE; CAPTEC FINANCIAL  
CORPORATION, a Delaware corporation;  
PACIFIC DINING, INC., a California  
corporation; SYSCO FOOD SERVICES OF  
PORTLAND, INC., an Oregon corporation;  
USEXPRESS LEASING, INC., a New Jersey  
corporation; REWARDS NETWORK  
ESTABLISHMENT SERVICES, INC., an  
Illinois corporation; and STATE OF  
WASHINGTON,

Defendants.

No. C09-5201

ORDER GRANTING SUMMARY  
JUDGMENT AND DECREE OF  
FORECLOSURE  
(Clerk's Action Required)

**JUDGMENT SUMMARY**

PRINCIPAL JUDGMENT AMOUNT:	\$11,758,734.08
PRE-JUDGMENT INTEREST:	\$ 2,990,374.80
COSTS:	\$ 43,151.38
ATTORNEY'S FEES:	\$ 92,282.97
JUDGMENT INTEREST RATE:	7.53% on principal, costs, & fees

1 JUDGMENT DEBTOR: GREAT NORTHWEST RESTAURANTS,  
INC.

2 JUDGMENT CREDITOR: BANK OF AMERICA, N.A.

3 ATTORNEY FOR JUDG. CREDITOR: Brian M. Born  
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5 **ORDER**

6 THIS MATTER came on for hearing on November 6, 2009, on plaintiff's motion for  
7 summary judgment and decree of foreclosure on its deed of trust foreclosure complaint. The  
8 Court reviewed the following written materials submitted by the parties:

- 9 1. Plaintiff's Motion for Summary Judgment;  
10 2. Declaration of Thomas E. Brown in support of Plaintiff's Motion;

11 The Court, having considered the evidence and arguments and being fully advised in  
12 the premises, finds that the allegations contained in the plaintiff's deed of trust foreclosure  
13 complaint are true, that there is no genuine issue as to any material fact and that plaintiff is  
14 entitled to summary judgment as a matter of law. NOW, THEREFORE, it is HEREBY

15 ORDERED, ADJUDGED and DECREED as follows:

16 1. That plaintiff shall have judgment against defendant Great Northwest  
17 Restaurants, Inc. ("Great Northwest"), for the principal amount of \$11,758,734.08, plus costs  
18 of \$43,151.38, attorney's fees in the amount of \$92,282.97, and prejudgment interest of  
19 \$2,990,374.80;

20 2. That the judgment herein, except prejudgment interest, shall bear interest at  
21 the rate of 7.53% per annum;

22 3. That plaintiff's Deed of Trust (the "Deed of Trust"), recorded on July 8, 2004,  
23 under Auditor's File No. 200407080132, and covering the real property at issue in this case,  
24 located in Pierce County, Washington, and legally described as:

25 **PARCEL A:**  
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1 LOT 3 OF PIERCE COUNTY SHORT PLAT RECORDED JULY 7,  
2 1993 UNDER RECORDING NO. 9307070708, IN PIERCE  
COUNTY, WASHINGTON.

3 PARCEL B:  
4 EASEMENT RIGHTS AS DERIVED IN RECIPROCAL PARKING  
AGREEMENT RECORDED UNDER RECORDING NO.  
5 9310190566;

6 PARCEL B-1:  
7 EASEMENT RIGHTS AS DERIVED IN RECIPROCAL  
EASEMENT AND OPERATION AGREEMENT RECORDED  
UNDER RECORDING NO. 8305100149.

8 Assessor's Tax Parcel Numbers 214000-004-3 & 214000-004-4

9 (the "Property") is hereby adjudged and decreed to be a first and paramount lien upon the  
10 Property and the whole thereof as security for the payment of the judgment and principal  
11 balance of said Deed of Trust, and that said Deed of Trust be, and is hereby, foreclosed and  
12 the Property is ordered sold by the Sheriff of Pierce County, Washington, in the manner  
13 provided by law, and the proceeds therefrom shall be applied to the payment of the judgment,  
14 interest and such additional amounts as plaintiff may advance for taxes, assessments,  
15 municipal charges and such other items as may constitute liens upon the property, together  
16 with insurance and repairs necessary to prevent the impairment of the security;

17 4. That the rights of each of the defendants and persons claiming by, through or  
18 under them or any and all persons acquiring any right, title, estate, lien or interest in or to the  
19 Property subsequent to the execution of the Deed of Trust be, are hereby adjudged inferior  
20 and subordinate to the plaintiff's lien and are forever foreclosed except for the statutory right  
21 of redemption and any right to excess proceeds;

22 5. That if any deficiency remains after application of the proceeds of such sale,  
23 execution shall be issued for said deficiency against defendant Great Northwest and enforced  
24 against any other property of it not exempt from execution;

25 6. That plaintiff be, and it is hereby, permitted to become a bidder and purchaser  
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1 at the sale and may credit bid some or all of the indebtedness, and that the purchaser shall be  
2 given immediate possession of the property and all right, title, and interest in any rents and  
3 profits generated by or arising from the property during the statutory redemption period; and

4 7. That the IRS has priority in Judgment Debtor's non-fixture personal property  
5 on the Property.

6 DATED this 10<sup>th</sup> day of November, 2009.

7  
8 s/Karen L. Strombom  
9 KAREN L. STROMBOM  
U.S. MAGISTRATE JUDGE

10 Presented by:

11 **TURNBULL & BORN, PLLC**

12  
13 /s/ Kevin W. Cure  
14 Brian M. Born, WSBA 25334  
15 Kevin W. Cure, WSBA 34409  
16 Attorneys for Bank of America  
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